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**BEFORE THE PROFESSIONAL GEOLOGISTS SECTION OF THE EXAMINING BOARD OF
PROFESSIONAL GEOLOGISTS, HYDROLOGISTS AND SOIL SCIENTISTS**

**IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :**

**JEFFREY L. FISCHER,
RESPONDENT.**

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LS# 0505042GEO

FINAL DECISION AND ORDER

Division of Enforcement Case No. 02 GEO 002

The parties to this action for the purposes of Wis. Stat. Sec. 227.53 are:

Jeffrey L. Fischer
N7847 CTH E
Ripon, WI 54971

Professional Geologists Section of the Examining Board of Professional Geologists, Hydrologists and Soil Scientists
P.O. Box 8935
Madison, WI 53708 8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708 8935

The parties in these matters agree to the terms and conditions of the attached Stipulation as the final decision of the matter(s), subject to the approval of the Professional Geologists Section of the Examining Board of Professional Geologists, Hydrologists and Soil Scientists ("Section"). The Section has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Section adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Jeffrey L. Fischer (Date of Birth: June 28, 1960) is duly licensed to practice as a Professional Geologist in the state of Wisconsin (license #13-867). This license was first granted on April 11, 1996, and is current through July 31, 2006. Mr. Fisher's address on file with the Department of Regulation and Licensing is N7847 CTH E, Ripon, WI 54971.

2. On August 26, 2002, Mr. Fischer pled No Contest in Fond du Lac County Circuit Court to two counts. Count I charged a felony of violation of Wis. Stat. § 943.20(1)(d), Theft-False Representation - More than \$2,500.00. Count II charged a felony violation of Wis. Stat. § 71.83(2)(b)1, Fraud/Rendering Income Tax return. A true and correct copy of the Criminal Complaint, Affidavit In Support of Uncharged "Read-In" Counts, and Judgment of Conviction in Fond du Lac County Circuit Court Case Number 2002CF000187 are attached as Exhibits A, B and C, respectively. Exhibits A, B and C are incorporated into this document by reference.

3. Count I of the criminal complaint alleged that Mr. Fischer presented false claims that certain work had been performed by an independent contractor, which Mr. Fischer knew to be a false claim, with the intent to defraud the State. The criminal complaint goes on to specifically detail how Mr. Fischer sought to defraud the State's Petroleum Environmental Clean-up Fund Program ("PECFA") by advising that certain remediation work be performed by independent service providers, when in fact, Mr. Fischer exercised substantial control over the service providers. Moreover, the complaint goes on to show that service providers must be independent of consultants under applicable law.

4. Count II of the complaint alleged that Mr. Fischer filed a false income tax return by omitting \$20,000 of income. The criminal complaint goes on to specifically detail how Mr. Fischer directed that \$20,000 of proceeds from PECFA services be deposited into an account controlled by Mr. Fischer. Further, the complaint details that the \$20,000 was not reported as income by Mr. Fischer.

5. The Department of Commerce administers a component of PECFA. PECFA is a program where owners of land contaminated with petroleum products are reimbursed for some of the costs associated with cleaning up the contaminated land. Landowners who wish for reimbursement must comply with the terms of the law. One of the terms is that an owner must use a certified environmental consultant to plan and administer the cleanup. After the cleanup is completed the consultant files a claim for reimbursement. Starting on April 4, 1993, Mr. Fischer was registered with the Department of Commerce as a certified environmental consultant for PECFA purposes (hereafter “consultant”).

6. In order to be able to participate with PECFA, consultants provide a signed statement to the Department of Commerce stating that they will abide by the laws governing PECFA. Mr. Fischer provided a signed statement to the Department of Commerce stating that he will abide by PECFA laws.

7. The actual work of cleaning up a contaminated site is provided through a commodity service provider. Under PECFA, a consultant must be independent of the commodity service provider. Independence of a consultant from a commodity service provider is defined by Wis. Admin. Code § COMM 47.015(22), in part, as “... entirely and completely free from any common control, guidance, ability to influence, significant financial interest or mutual benefit.”

8. The facts surrounding the convictions described in paragraph 2 show that Mr. Fischer had a degree of control of one or more commodity service providers. Mr. Fischer had substantial control over Pamenter Enterprises, Inc. (“PEI”), a commodity service provider used on projects where Mr. Fischer served as the consultant. Substantial control is demonstrated by the fact that he controlled billing and accounting functions of PEI, and also directed funds to accounts belonging to himself or members of his immediate family.

9. The facts surrounding the convictions described in paragraph 2 show that one or more clients of Mr. Fischer did not receive full reimbursement from PECFA for environmental cleanups due at least in part to the determination of the Wisconsin Department of Commerce that there was not sufficient independence between Pamenter Enterprises, Inc., and Mr. Fischer.

10. Wis. Stat. § 470.08(2)(b), provides that the Professional Geologists Section-Examining Board of Professional Geologists, Hydrologists and Social Scientists may deny, limit, suspend or revoke a license if the license holder has been convicted of an offense the circumstances of which substantially relate to the practice of professional geology.

11. Wis. Admin. Code § GHSS 5.02 provides that a violation of specific unprofessional conduct standards may be a cause for disciplinary action.

12. Wis. Admin. Code § GHSS 5.03(10) provides that a license holder has committed unprofessional conduct if the license holder has engaged in conduct which evidences a lack of trustworthiness to transact the business required by the profession.

CONCLUSIONS OF LAW

1. The Wisconsin Professional Geologists Section of the Examining Board of Professional Geologists, Hydrologists and Soil Scientists has jurisdiction to act in these matters pursuant to Wis. Stat. § 470.08(2).

2. The Wisconsin Professional Geologists Section of the Examining Board of Professional Geologists, Hydrologists and Soil Scientists has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

3. The convictions described in paragraph 2 of the Findings of Fact are substantially related to the practice of professional geology.

4. The convictions and conduct described above in paragraphs 2-4 and 8-9 of the findings of fact show a lack of trustworthiness to transact professional business

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The Professional Geologists Section of the Examining Board of Professional Geologists, Hydrologists and Soil Scientists hereby ACCEPTS the VOLUNTARY SURRENDER of the license and certification of Respondent JEFFREY L. FISCHER (#9-510), effective September 1, 2005.

IT IS FURTHER ORDERED that:

2. Prior to applying for a license as a Professional Geologist Respondent shall pay the costs of the Department of Regulation and Licensing in this matter in the amount of \$5,000.00.

3. The payment required by this order to be submitted to the Department Monitor shall be mailed, faxed or delivered to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817, Fax (608) 266-2264

4. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and well-being and may result in a summary suspension of Respondent's license and certification. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that the Respondent fails to timely submit any payment of the partial cost as set forth above, or fails to comply with the ordered continuing education the Respondent's license and certification (9-958) SHALL BE SUSPENDED, without further notice or hearing until Respondent has complied with the terms of this Order.

5. This Order is effective on the date of its signing.

THE PROFESSIONAL GEOLOGISTS SECTION OF THE EXAMINING BOARD OF PROFESSIONAL
GEOLOGISTS, HYDROLOGISTS AND SOIL SCIENTISTS

By: Thomas J. Evans
A Member of the Board

August 18, 2005
Date